

Order

199-2506

DESIGNATIONS OF DEPOSITION TESTIMONY OF BASSEY JEJE
(Testifying By Way of Deposition Only)
(Counter-Designations in italicized text)
Deposition January 18-22, 2005

Plaintiffs' Designations	Defendants' Objections and Counter-Designations	Plaintiffs' Responses to Defendants' Objections and Objections to Counter-Designations	Defendants' Designations	Plaintiffs' Objections and Counter-Designations	Defendants' Responses to Plaintiffs' Objections and Objections to Counter-Designations
All	Defendants object to the introduction of any testimony from Bassey Jeje because he withheld material evidence during discovery, committed perjury about how and when the evidence was lost, and should be dismissed from this case. See Dkt. # 1998.			<i>Plaintiffs counter-designate all testimony that was designated in their own deposition from Bassey Jeje's deposition which defendants have not designated.</i>	As explained in Caroline Mitchell's correspondence dated August 8, 2008, Defendants object to Plaintiffs' attempt to blanket counter-designate all of the testimony included in their designations. To the extent Plaintiffs contend that particular testimony is a proper counter-designation to testimony Defendants have designated, Plaintiffs were obligated to identify that testimony as a specific counter-designation. Plaintiffs' attempt to assert a blanket counter-designation precluded any meet and confer on the counter-designation and is otherwise improper. Accordingly, Defendants move to strike
	The designations below represent defendants' counter-designations and a limited cross examination based on plaintiffs' designations. Defendants reserve the right and intend to call Mr. Jeje in their affirmative case.				

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			4:21-5:13		the blanket cross-designation. To the extent the Court permits it, Defendants incorporate by reference their objections and counter-designations to the Plaintiffs' designations.
5:11-13					
55:6					
55:9-14					
55:18-56:2					
56:12-22					
	56:23-57:3				
190:14-15	Testimony relating to whether there was a school	This testimony is admissible to show the plaintiffs' lack			


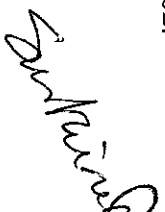
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	in his village is irrelevant, a waste of time and prejudicial. FRE 401-403. <i>Q/R</i>	of education or sophistication and, thus, is relevant to the jury's assessment of his credibility.			
190:18-19	Testimony relating to whether there was a school in his village is irrelevant, a waste of time and prejudicial. FRE 401-403. <i>Q/R</i>	This testimony is admissible to show the plaintiffs' lack of education or sophistication and, thus, is relevant to the jury's assessment of his credibility.			
192:14-16	Testimony relating to deponent's wives and children is irrelevant and a waste of time because he has no claims to which this information is relevant. FRE 401-403. <i>Q/R</i>	This testimony is admissible as limited background information about the plaintiff.			
192:20-22	Testimony relating to deponent's wives and <i>Q/R</i>	This testimony is admissible as limited background			

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	children is irrelevant and a waste of time because he has no claims to which this information is relevant. FRE 401-403.	information about the plaintiff.			
193:9-12	Testimony relating to deponent's wives and children is irrelevant and a waste of time because he has no claims to which this information is relevant. FRE 401-403. <i>Q/A</i>	This testimony is admissible as limited background information about the plaintiff.			
194:7-8	Testimony relating to deponent's wives and children is irrelevant and a waste of time because he has no claims to which this information is relevant. FRE 401-403. <i>R</i>	This testimony is admissible as limited background information about the plaintiff.			
198:1-7					

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	<i>201:11; 201:14-17</i>				
201:18-202:5					
257:3-6					
258:15-16					
258:19-20					
259:4-8	Hearsay (as shown in 259:9-15). FRE 802. 	There are no hearsay statements recounted in this testimony.			
259:16-19	Hearsay (as shown in 259:9-15). FRE 802. 	The content of the placards is admissible under the state of mind exception to the hearsay rule, because it is evidence of Bassey Jeje's motivation in going to the platform. FRE 803(3).			
259:22-23					

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260:4-10			262:4-5; 262:8-12; 262:14-22	262:4-5; 262:8-12; 262:14-22: Irrelevant and prejudicial. Plaintiff Jeje is not claiming any damages arising from items he lost as a result of the Ilaje/Ijaw crisis. Indeed, he is not claiming any lost wages or other property losses arising from the injuries he suffered on May 28, 1998 at Parabe.	Plaintiff Jeje is claiming "the reasonable value of wages, earnings and earning capacity lost in the past and/or which will be reasonably probable to be lost in the future," and this testimony is relevant to the proper measure of that earning capacity because that capacity (<i>i.e.</i> , his business) was destroyed during the Ijaw crisis.
			263:13-263:17	263:13-263:17: Irrelevant and prejudicial. Plaintiff Jeje is not claiming any damages arising from items he lost as a result of the Ilaje/Ijaw crisis. Indeed, he is not claiming any lost	Plaintiff Jeje is claiming "the reasonable value of wages, earnings and earning capacity lost in the past and/or which will be reasonably probable to be lost in the future," and this

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				wages or other property losses arising from the injuries he suffered on May 28, 1998 at Parabe.	testimony is relevant to the proper measure of that earning capacity because that capacity (<i>i.e.</i> , his business) was destroyed during the Ijaw crisis.
264:2-17	264:3-4: Colloquy of counsel is irrelevant, waste of time. FRE 401-403.	Plaintiffs do not intend to read in the objections of counsel.			
271:14-25	Hearsay. FRE 802; <i>see</i> 283:2-19 (where deponent admits that conversation occurred in English and that he did not understand any of it without later translation by Bola Oyirbo). <i>See</i> 	The content of the discussion with the military is admissible under the state of mind exception to the hearsay rule, because it is evidence of Bassey Jeje's motivation in going onto the platform. FRE 803(3).			
273:11-19					

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273:22-274:7 <i>Supplied 273:13-274:1-7</i>	273:24-274:7: Hearsay. FRE 802; <i>see</i> 283:2-19 (where deponent admits that conversation occurred in English and that he did not understand any of it without later translation by Bola Oyibo); <i>see also</i> 5:16-17 (where deponent states that he does not speak English).	Most of this testimony does not involve statements but rather descriptions of conduct. To the extent it does include statements by others, however, they are admissible under the state of mind exception to show Bassey Jeje's motives and intent in going onto the platform.			
274:13-21	Hearsay. FRE 802. 274:14-15: Colloquy of counsel is irrelevant, waste of time. FRE 401-403. <i>Q2</i>	State of mind hearsay objection. FRE 803(3). Plaintiffs do not intend to read in the objections of counsel.			
283:21-284:8	Hearsay. FRE 802; <i>see also</i> 283:2-19; 284:9, 12-16 (where deponent admits that conversation was in English which he does not speak). <i>Supplied</i>	Much of this designation (283:21-25) is descriptive and not involving statements at all. 284:6-8 is admissible under FRE			

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	understand, and his testimony is based on what Bola Oyimbo told him).	802(3) to show Bassey Jeje's state of mind in participating in the protest. The remainder is withdrawn.			
			393:13-15, 19-22	393:20-22 – Move to strike as non-responsive to the question asked.	Testimony regarding Jeje's percipient observations as to the type of guns and the sound of the guns directly answers the question inquiring into the type of gun.
			393:24-394:3		
			417:21-22; 417:25	Exhibit 701 lacks foundation that it bears any relationship to the actual physical layout at Parabe Platform. As such, any questioning with respect to it and any marks the	Plaintiffs' counsel did not object to the use of Exhibit 701 during this questioning, so this objection to form is waived. Moreover, regardless of whether the exhibit is an actual picture

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				deponent made on it are irrelevant and unduly prejudicial. <i>417:2-20</i>	of the CBL-101 and Parabe platform, it is a tool that will assist the jury in understanding the relative location of Jeje, so plaintiffs' objection goes to its weight and not its admissibility. Moreover, Jeje provided foundation for the orientation of the barge and the platform in Exhibit 701 and the orientation of the CBL-101 and Parabe platform during the invasion. See 432:5-20.
418:2-3					
418:6-11					
418:13-15					

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428:4-5					
428:6-10					
428:11-12					
428:16-22					
	468:18-469:3	The designated testimony is not admissible under FRE 106 as evidence that is necessary for a fair presentation of the testimony. Instead the testimony offered is in the nature of cross-examination, attempting to obtain information that is different from what plaintiff first stated, and thus, if anything should be part of defendants' cross-examination, <i>not</i> insertions			

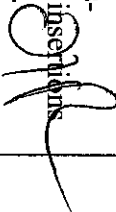
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		for completeness.			
469:4-7					
481:16-23					
482:2-6	482:2-6: Non responsive statement by deponent is confusing, misleading and prejudicial. FRE 403	Testimony is responsive in that it provides information about what Bassey Jeje could see when he was starting across the barge.			
482:24-483:2					
483:22-484:2					
484:5-11					
484:14-17					
	484:18-24, 485:1-16, 485:19-23, 485:25-486:3, 486:5-9, 486:12-13	Generally, plaintiffs move to strike the testimony as nonresponsive to the questions asked and unclear			

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		as to the meaning of plaintiff's responses. Further, the designated testimony is not admissible under FRE 106 as evidence that is necessary for a fair presentation of the testimony. Instead the testimony offered is in the nature of cross-examination, attempting to obtain information that is different from what plaintiff first stated, and thus, if anything should be part of defendants' cross-examination, not <i>insertions</i> for completeness. 			
486:15-16					
486:19-25					

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487:3-12					
487:20-488:19	366:5; 366:14 starting with "by"-19	Testimony at 366:5, 14-16 is not admissible under FRE 106 as testimony necessary for a fair presentation of the testimony cited by plaintiffs, but rather is in the nature of cross-examination or affirmative designations by defendants. <i>Plaintiffs move to strike testimony at 366:17-19 as non-responsive to the question asked.</i>			
489:14-490:15	Lacks foundation because plaintiffs have not designated the portion of deponent's testimony that he was shot. FRE 401-403,	Plaintiffs have designated testimony showing that plaintiff was shot, so the premise for defendants' objection is simply wrong.			

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	602. <i>Q/R</i> 489:20-21. Colloquy of counsel is irrelevant, waste of time. FRE 401-403.	See 484:14-17 and surrounding testimony. Plaintiffs do not intend to offer the colloquy of counsel at 489:20-21.			
492:2-15	492:10-15: Lacks foundation because plaintiffs have not designated the portion of deponent's testimony that he was shot. <i>Q/R</i> FRE 401-403, 602.	Plaintiffs have designated testimony showing that plaintiff was shot, so the premise for defendants' objection is simply wrong. See 484:14-17 and surrounding testimony.			
521:1-11	Lacks foundation because plaintiffs have not designated the portion of deponent's testimony that he was shot. FRE 401-403, 602. <i>Q/R</i>	Plaintiffs have designated testimony showing that plaintiff was shot, so the premise for defendants' objection is simply wrong. See 484:14-17 and surrounding testimony.			
	521:12-14	Testimony at 526:5, 14-16 <i>Q/R</i>			

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		is not admissible under FRE 106 as testimony necessary for a fair presentation of the testimony cited by plaintiffs, but rather is in the nature of cross-examination. Further, the testimony is irrelevant under FRE 402.			
580:2-3					
580:6-12					
580:15-19					
580:22-581:7					
581:10-13					
	366:5; 366:14 starting with "by"-19	Testimony at 366:5, 14-16 is not admissible under FRE 106 as testimony necessary for a fair presentation of the testimony cited by plaintiffs,			

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		but rather is in the nature of cross-examination or affirmative designations by defendants. Plaintiffs move to strike testimony at 366:17-19 as non-responsive to the question asked. Further, defendants have already designated this testimony once. Even if it were admissible, it would be wasteful, prejudicial and otherwise improper to allow its presentation more than once.			
586:9-17					
	586:18-19; 586:22-23	Not necessary for a fair presentation of the evidence under FRE 106. <i>Cumulative of the testimony</i>			

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		submitted under FRE 403.			
586:25-587:1					
587:3-8					
587:10					
			626:5-12		
628:8-12					
			640:22-641:3	Irrelevant and prejudicial under FRE 402-403. Plaintiff Jeje is not claiming any damages arising from items he lost as a result of the Ilaye/Ijaw crisis. Indeed, he is not claiming any lost wages or other property losses arising from the injuries he suffered on May 28, 1998 at Parabe.	

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644:10-17	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to Parabe. FRE 401-403, 701.	Testimony is directly relevant to plaintiff's prayer for damages for pain, suffering, and emotional distress and is not prejudicial any way. The testimony falls squarely with the scope of admissible lay opinion under FRE 701 in that it is "rationally based on the perception of the witness," "helpful to a clear understanding of... the determination of a fact in issue," and not based on specialized knowledge.			
645:13-646:2	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to 	Testimony is relevant to damages claim for pain and suffering and emotional distress and not prejudicial. It falls within the scope of proper lay opinion under			

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	Parabe. FRE 401-403, 701.	FRE 701.			
650:17-18	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to Parabe. FRE 401-403, 701.	Testimony is relevant to damages claim for pain and suffering and emotional distress and not prejudicial. It falls within the scope of proper lay opinion under FRE 701.			
650:20	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to Parabe. FRE 401-403, 701.	Testimony is relevant to damages claim for pain and suffering and emotional distress and not prejudicial. It falls within the scope of proper lay opinion under FRE 701.			
651:14-18					
721:4-7		Improper counter-designation because not necessary for a fair presentation of the evidence			

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		under FRE 106, but rather in the nature of cross examination.			
721:9-22	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to Parabe. FRE 401-403, 701	Testimony is relevant to damages claim for pain and suffering and emotional distress and not prejudicial. It falls within the scope of proper lay opinion under FRE 701.			
721:25	Irrelevant, prejudicial and improper lay testimony on causation of physical problems, because there is no medical testimony that they relate in any way to Parabe. FRE 401-403, 701.	Testimony is relevant to damages claim for pain and suffering and emotional distress and not prejudicial. It falls within the scope of proper lay opinion under FRE 701.			
755:18-21					
760:5-761:12	760:5-761:9: Testimony re deponent's speech to Ilaje	Plaintiff's speech to his fellow protesters is directly			

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	comparing them to Mandela and Soro-Wiwa is irrelevant, waste of time and prejudicial. FRE 401-403. 760:5-14: Hearsay. FRE 802.	relevant to his intent in going to the Parabe platform and, thus, cannot be deemed either a waste of time or unduly prejudicial. Statements calling people together or directing them to do something are directives in the nature of notice, not hearsay statements offered for the truth of any matter.			
762:8-15					
766:12-23	Hearsay. FRE 802 (see testimony at 768:20-769:13 where deponent testifies that he heard message from Bola).	State of mind exception to the hearsay rule, supporting proof of plaintiff's intent to leave Parabe the next day. FRE 803(3).			
772:3-20	772:16-20: Hearsay. FRE 802. Bowoto has not testified to the conversation	Prior consistent statement to the extent that defendants impeach Larry's testimony			

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	Jeje describes.	that he sent for boats to come in the morning. FRE 801(d)(1).			
832:21-833:8					
833:11-13					
	<i>833:19-834:7</i>				
834:8-22					
834:25-835:2					